

## POTENTIAL LIABILITY FOR UNEMPLOYMENT INSURANCE BENEFITS WHEN ELECTING THE REIMBURSABLE METHOD OF FINANCING UNDER THE CALIFORNIA UNEMPLOYMENT INSURANCE CODE (CUIC)

A nonprofit organization, public entity, or Indian tribe as defined under Sections 801 or 802 of the CUIC may elect to reimburse the cost of benefits (including extended duration benefits and federal-state extended benefits) paid in lieu of contributions normally required of tax-rated employers. An election of the cost-of-benefits method must remain in effect for not less than five (5) complete calendar years for a nonprofit organization or two (2) complete calendar years for a public entity or Indian tribe. However, CUIC, Section 803(g)(2) requires the Department to terminate all such elections of any Indian tribe that is more than 90 days delinquent in the payment of contributions, bonds, advances, reimbursements, or applicable penalties or interest.

"The cost of benefits paid" means the proportion of the total amount of benefits or payments made to a claimant which the total wages paid to that claimant in his or her base period by that entity bears to the total wages paid to that claimant in employment by all employers in his or her base period.

A public entity or Indian tribe electing the cost-of-benefits method of financing could have potential liability of \$17,940 for 2001, per employee separated from employment if such employee files claims in two succeeding years and the public entity or Indian tribe is the base-period employer for both claims. Each such employee could be paid \$8,970 in the first benefit year and also \$8,970 in a second benefit year (\$230 a week for 39 weeks, including 13 weeks of California extended duration benefits or federal-state extended benefits). Public entity and tribal employers pay the full cost of regular and extended benefits. See chart below for calendar years 2002 through 2005.

<u>Year – Amt.</u>	<u>Max. Wkly. Amt.</u>	<u>Max. Number Weeks Allowed 26</u>	<u>Cal/Fed-State Extended Benefit</u>	<u>1<sup>st</sup> Year</u>	<u>2<sup>nd</sup> Year</u>	<u>Total Potential Liability</u>
2001 - \$230		\$ 5,980	\$ 2,990	\$ 8,970	\$ 8,970	\$ 17,940
2002 - \$330		8,580	4,290	12,870	12,870	25,740
2003 - \$370		9,620	4,810	14,430	14,430	28,860
2004 - \$410		10,660	5,330	15,990	15,990	31,980
2005 - \$450		11,700	5,850	17,550	17,550	35,100

A nonprofit organization under the same election and set of circumstances, however, could have a potential liability of \$14,720 for 2001. They pay 100% of regular benefits (\$11,960 for two succeeding benefit years) and only 50% of the cost of the last 12 weeks of federal-state extended benefits (\$2,760 for two succeeding benefit years). The first week of federal-state extended benefits is paid by the federal government. See chart below for calendar years 2002 through 2005.

2001 - \$230	\$ 5,980	\$ 1,380*	\$ 7,360	\$ 7,360	\$ 14,720
2002 - \$330	8,580	1,980*	10,560	10,560	21,120
2003 - \$370	9,620	2,220*	11,840	11,840	23,680
2004 - \$410	10,660	2,460*	13,120	13,120	26,240
2005 - \$450	11,700	2,700*	14,400	14,400	28,800

\*Last 12 weeks represents 50% Fed-State Extended Benefit

If other employers have base-period wages for a claim, a reimbursing entity is liable to reimburse benefits in the same percentage ratio that its base-period wages bear to the total base-period wages. For example, if total base-period wages are \$20,000, a reimbursing entity has \$5,000 base-period wages, and \$15,000 base-period wages are paid by other employers, then the reimbursing entity is liable for 1/4 of the total benefits paid. If maximum benefits of \$8,970 were paid on such a claim, a reimbursing public entity or Indian tribe would be liable for \$2,242.50 (\$1,495 regular benefits plus \$747.50 extended benefits).

An entity electing the reimbursable method of financing for Unemployment Insurance Benefits must reimburse EDD for all UI benefits paid in their behalf. They are not entitled to any relief of charges due to benefit payment errors. The reimbursing entity is only entitled to a credit against its liability if overpayments of UI benefits are in fact collected from a UI Claimant.

Comments: The computations for the illustrations above are based on the weekly benefit amount schedule provided in Section 1280 of the CUIIC, using the 2001 maximum weekly benefit amount of \$230. Types of unemployment insurance programs and duration of benefits are as mandated under the CUIIC.

## **DEPARTMENTAL NOTICES MAILED WHEN A BENEFIT CLAIM IS FILED**

The filing of claims for unemployment insurance will generate certain forms which will be directed to the appropriate electing entity. The most important forms are these:

- (A) DE 1101C/Z, Notice of Unemployment Insurance Claim Filed, is sent to the most recent employer when a new claim is filed and to the most recent employer of the claimant who has filed an additional claim during the same benefit year. The employer should respond to the DE 1101C/Z *if* the claimant is unemployed for a reason that would disqualify him or her for benefits. (A list of disqualifying factors is printed on the form. Layoff due to lack of work or because of staff reduction is not disqualifying.)
- (B) DE 1545R, Notice of Wages Used for Unemployment Insurance (UI) Claim, is sent to each reimbursable base-period employer. Your notice shows the base-period wages of record as paid by you. If there is any error in claimant identification or in wages listed, you should immediately write to: Employment Development Department, Insurance Recomputation Group, MIC 16, P.O. Box 826880, Sacramento, CA 94280-0001. Any information regarding claimant eligibility for UI benefits should be directed to the Department's return address listed on the DE 1545R.

**NOTE:** Section 1260 CUIIC provides that an individual who voluntarily left his/her last employment without good cause, or was terminated for good cause, is ineligible to receive unemployment compensation benefits until he or she, subsequent to the disqualifying act and registration for work, has performed service in bona fide employment for which he or she has received remuneration equal to or in excess of five (5) times his or her weekly benefit amount.

After an individual becomes eligible under Section 1260 CUIIC to receive unemployment benefits, the electing entity will be charged for its pro rata share of the amounts paid by the Department.

- (C) DE 1296B, Benefit Audit, will be directed to the appropriate employing entity in all cases where a claimant has been paid benefits during a quarter when he or she also worked for and was paid wages by the nonprofit organization, public entity, or Indian tribe. The completion of the DE 1296B requires the distribution of pay by calendar weeks. Therefore, it is essential that employing entities maintain records which will permit the allocation of pay to specific calendar weeks.